

**UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WASHINGTON
AT TACOMA**

STEVEN CROW and CHERYL CROW,
individually and as husband and wife, and
Plaintiff CHERYL CROW on behalf of
and as parent and guardian of J.M.C., J.J.C.,
and G.E.C., minors,

Plaintiffs,

VS

COSMO SPECIALTY FIBERS, INC., a
Delaware Corporation; TRANS-SYSTEM,
INC., an Indiana corporation d/b/a JAMES J.
WILLIAMS BULK SERVICE
TRANSPORT; AIRGAS SPECIALTY
PRODUCTS, INC., a Delaware corporation,
"JOHN DOE AND JANE DOE ONE,"
Individually and as husband and wife;
"JOHN DOE TWO COMPANY", an as
of yet unknown company, partnership
or individual,

Defendants.

CASE NO. 3:15-cv-05665

COMPLAINT FOR DAMAGES
AND DEMAND FOR JURY

COME NOW the Plaintiffs, STEVEN CROW and CHERYL CROW, individually and as
husband and wife, and CHERYL CROW, on behalf of and as parent of J.C., a minor, J.C., a minor,

COMPLAINT FOR DAMAGES
AND DEMAND FOR JURY

Page – 1

TACOMA INJURY LAW GROUP, INC., P.S.
A Professional Services Corporation, Attorneys At Law
Physical: 3848 S Junett St, Tacoma, WA 98409
Mailing: PO Box 1113, Tacoma, WA 98401
Tel: (253) 472-8566 / Fax: (253) 475-1221

and G.C., a minor, by and through their attorney of record, TACOMA INJURY LAW GROUP, P.S., INC., and for cause of action against said Defendants, state and allege as follows:

I. JURISDICTON AND VENUE

1.1 Defendant Cosmo Specialty Fibers, Inc.: Venue herein is proper per 28 USC 1391 since this court is in the judicial district in which a substantial part of the events or omissions giving rise to this claim occurred and one or more of the named Defendants herein is subject to the court's personal jurisdiction with respect to this action. Jurisdiction is proper herein because this Defendant is licensed to transact and does transact business in Grays Harbor County, State of Washington.

1.2 Defendant Trans-System, Inc. d/b/a James J. Williams Bulk Service Transport: Venue herein is proper in this court per 28 USC 1391 since this court is in the judicial district in which a substantial part of the events or omissions giving rise to this claim occurred and one or more of the named Defendants herein is subject to the court's personal jurisdiction with respect to this action. Jurisdiction is proper herein because this Defendant is licensed to transact and does transact business in Grays Harbor County, State of Washington.

1.3 Defendant Airgas Specialty Products: Venue herein is proper in this court per 28 USC 1391 since this court is in the judicial district in which a substantial part of the events or omissions giving rise to this claim occurred and one or more of the named Defendants herein is subject to the court's personal jurisdiction with respect to this action. Jurisdiction is proper herein because this Defendant is licensed to transact and does transact business in the State of Washington.

1.4 Defendants "John Doe One and Jane Doe One, individually and as a marital community": Venue herein is proper in this court per 28 USC 1391 since this court is in the

1 judicial district in which a substantial part of the events or omissions giving rise to this claim
 2 occurred and one or more of the named Defendants herein is subject to the court's personal
 3 jurisdiction with respect to this action. Jurisdiction is proper herein because these Defendants,
 4 upon information and belief, have formed a marital community under the laws of the State of
 5 Washington.

10 1.5 **"John Doe Two Company":** Venue herein is proper in this court per 28
 11 USC 1391 since this court is in the judicial district in which a substantial part of the events or
 12 omissions giving rise to this claim occurred and one or more of the named Defendants herein is
 13 subject to the court's personal jurisdiction with respect to this action. Jurisdiction is proper herein
 14 because this Defendant, upon information and belief, is licensed to transact and does transact
 15 business in the State of Washington and/or has established such minimum contacts in the State of
 16 Washington that it is subject to personal jurisdiction under the United States Supreme Court case
 17 of *International Shoe* and its progeny.

27 **II. PARTIES**

28 **Identification of Plaintiffs:**

29 2.1 The Plaintiffs **STEVEN CROW and CHERYL CROW** at all times relevant
 30 hereto have formed a marital community under the laws of the State of Washington and at the time
 31 of the occurrence alleged herein resided in the City of Raymond, Pacific County, State of
 32 Washington.

33 2.2 **Plaintiffs J.M.C., J.J.C. and G.E.C.** are the minor children of Plaintiffs Steven
 34 and Cheryl Crow and at the time of the occurrence alleged herein were/are under the age of 18 and
 35 resided in the City of Raymond, Pacific County, State of Washington. Plaintiff CHERYL CROW,
 36
 37
 38

TACOMA INJURY LAW GROUP, INC., P.S.
 A Professional Services Corporation, Attorneys At Law
 Physical: 3848 S Junett St, Tacoma, WA 98409
 Mailing: PO Box 1113, Tacoma, WA 98401
 Tel: (253) 472-8566 / Fax: (253) 475-1221

1 as parent and guardian of said minors, bring their claims as guardian herein under Washington
2
3 law.

4
5 **Identification of Defendants:**
6

7 **2.3 Identification of Defendant Cosmo Specialty Fibers, Inc., a Delaware**
8
9 **Corporation:** Defendant was and is a foreign Corporation of the State of Delaware and transacts
10 business in numerous counties within the State of Washington, including but not limited to Grays
11 Harbor County, Washington. The Defendant is located in Grays Harbor County, Washington and
12
13 is and was at all times material hereto responsible for the maintenance and safety of that premises.
14
15

16
17 **2.4 Defendant Trans-System, Inc. d/b/a James J. Williams Bulk Service**
18
19 **Transport:** Defendant Trans-System, Inc. is and was a parent corporation of and does business
20 as “James J. Williams Bulk Service Transport”, a subsidiary that transports dry and liquid bulk
21 freight in the State of Washington, Grays Harbor County. Defendant Trans-System, Inc. is an
22 Indiana corporation registered to do business in the State of Washington. Upon information and
23 belief, Defendant Trans-System, Inc. d/b/a James J. Williams Bulk Service Transport was
24 responsible for transporting the substance, believed to have been aqua ammonia/ammonium, on
25 the date of the incident that is the subject of this lawsuit.
26
27

28
29 **2.5 Defendant Airgas Specialty Products, Inc.:** Defendant Airgas Specialty
30 Products, Inc., is a Delaware corporation licensed to do business in the State of Washington and is
31 a supplier of numerous hazardous substances, including but not limited to the substance that caused
32 the plaintiff’s injuries that are at issue in this lawsuit.
33
34

35 **2.6. Defendants “John/Jane Does One, individually and as a marital community”:**
36 That upon information and belief, at all times relevant herein the Defendant John/Jane Doe One
37 was an agent or employee of the Defendant Cosmo Specialty Fibers, Inc. or Defendant Trans-
38
39
40
41

42
43
44
45
46
47
TACOMA INJURY LAW GROUP, INC., P.S.
A Professional Services Corporation, Attorneys At Law
Physical: 3848 S Junett St, Tacoma, WA 98409
Mailing: PO Box 1113, Tacoma, WA 98401
Tel: (253) 472-8566 / Fax: (253) 475-1221

System, Inc. d/b/a James J. Williams Bulk Service Transport or Defendant Airgas Specialty Products, Inc. or John Doe Two Company, and was responsible, in whole or in part, for the escape of the hazardous substance from the Cosmo Specialty Fibers, Inc. premises on or about September 27, 2012. Upon information and belief, John/Jane Doe One was acting at all times relevant hereto on behalf of his or her marital community.

2.7 **“John Doe Two Company”:** That upon information and belief, at all times relevant herein the Defendant John Doe Two Company is believed to be a corporation, individual or partnership whose true name and capacity is unknown to Plaintiffs and that when the true name and capacity of Defendant John Doe Two Company is ascertained by Plaintiffs, Plaintiffs pray for leave to amend this Complaint to properly identify John Doe Two Company as having been involved in the manufacture, supply, transport or delivery of the hazardous substance that caused Plaintiff Steven Crow’s injuries in this matter.

III. GENERAL ALLEGATIONS

3.1 On September 27, 2012, Plaintiff Steven Crow was an employee of Weyerhaeuser Co. Coastal Washington and was working in the Weyerhaeuser truck shop yard located in Cosmopolis, Washington.

3.2 There are Aqua Ammonia tanks on the premises of Defendant Cosmo Specialty Fibers, Inc. (hereafter referred to as “Defendant Cosmo”) and those tanks are located approximately 150 yards from the Weyerhaeuser truck shop yard.

3.3 Plaintiff Steven Crow was severely injured when an unknown hazardous substance believed to be aqua ammonia/ammonium was negligently released from the premises of Defendant Cosmo. After the negligent release of the hazardous substance, that substance entered the

1 Weyerhaeuser premises where plaintiff and others were working, causing the substance to be
2
3 inhaled/ingested by Plaintiff Steven Crow and several of his co-workers.
4

5 3.4 Upon inhaling/ingesting the hazardous substance, Plaintiff Steven Crow
6
7 immediately had difficulty breathing, became dizzy and was coughing up phlegm. In an attempt
8
9 to escape the strong and noxious odor from the hazardous substance, several of Plaintiff's co-
10
11 workers ran into the nearby truck shop and Plaintiff Steven Crow got into his pickup truck that
12
13 was immediately nearby. Plaintiff Steven Crow, attempting to escape the effects of the hazardous
14
15 substance, rolled up the vehicle windows and turned on the air conditioner and tried to drive to
16
17 another area to escape the hazardous substance. As he attempted to drive his vehicle to safety he
18
19 became overcome by the fumes and became extremely ill.
20

21 3.5 No alarms were triggered or alerted anyone on Defendant Cosmo's premises
22
23 warning of the release of a hazardous substance.
24

25 3.6 Based upon information and belief but subject to further investigation, the release
26
27 of the hazardous substance that caused Plaintiff Steven Crow's injuries resulted when the driver
28
29 of a delivery truck for Defendant Trans-System, Inc. d/b/a James J. Williams Bulk Service
30
31 Transport, on the Cosmo premises, unloaded the hazardous substance, Aqua ammonia/ammonium,
32
33 onto the Cosmo premises and negligently left the vents/valve to the truck open when leaving the
34
35 site, allowing the escape of the hazardous substance.
36

37 3.7 As a direct and proximate cause of the hazardous substance that was negligently
38
39 released from the Defendant Cosmo Specialty Fibers' premises, Plaintiff Steven Crow sustained
40
41 severe, permanent and disabling injuries and damages.
42
43
44
45
46
47

1 3.8 At the time of the incident alleged herein, Plaintiff Steven Crow was a business
2
3 invitee, lawfully on the Weyerhaeuser premises and did nothing to cause or contribute to his
4
5 injuries and damages.

6
7 **IV. NEGLIGENCE OF DEFENDANTS**

8
9 4.1 The Defendants, each of them, were negligent and their acts and omissions
10
11 consisted of, but are not limited to, the following:

12
13 A. Failure to properly maintain in a reasonably safe manner that portion of the premises of
14
15 Defendant Cosmo Specialty Fibers, Inc., where the hazardous substance that severely injured
16
17 Plaintiff was negligently released on September 27, 2012;

18
19 B. Failure to ensure the proper training and licensing of agents, employees and/or third
20
21 parties who were allowed to be on the subject Cosmo premises and deliver and/or handle and/or
22
23 control hazardous or dangerous substances;

24
25 C. Failure to ensure the proper supervision of their agents, employees and/or third parties
26
27 who were allowed to allowed to be on the subject Cosmo premises and handle/control hazardous
28
29 substances;

30
31 D. Failure to ensure the proper training and licensing of their agents, employees and/or
32
33 third parties who were allowed to transport, deliver and/or handle and/or control hazardous or
34
35 dangerous substances;

36
37 E. Failure to ensure the proper supervision of their agents, employees and/or third parties
38
39 who were allowed to transport, deliver and/or handle and/or control hazardous or dangerous
40
41 substances;

42
43 F. Failure to ensure the proper training and licensing of their agents, employees and/or
44
45 third parties who were allowed to assist in the loading, transport, delivery and/or handling and/or
46
47

1 control of hazardous or dangerous substances that Defendants supply and/or place into interstate
2
3 and intrastate commerce;

4
5 G. Failure to ensure the proper supervision of their agents, employees and/or third parties
6
7 who were allowed to assist in the loading, transport, delivery and/or handling and/or control of
8
9 hazardous or dangerous substances that Defendants supply and place into interstate and intrastate
10
11 commerce;

12
13 H. Failure to establish company policies and procedures for the safe loading, transport,
14
15 delivery and/or handling and/or control of hazardous/dangerous substances;

16
17 I. Failure to follow and/or to ensure the following by others of established company
18
19 policies and procedures for the safe loading, unloading, transport, delivery and/or handling and/or
20
21 control of hazardous/ dangerous substances;

22
23 J. Failure to comply with and enforce safety standards set by state and federal agencies,
24
25 including but not limited to the Washington Industrial Safety and Health Act (WISHA) as
26
27 promulgated under RCW 49.17, et seq.; The Washington Hazardous Waste Management Act as
28
29 promulgated under RCW 70.105; the Washington Administrative Codes (WAC); and federal
30
31 regulations set by the Occupational Health and Safety Act (OSHA), the Department of
32
33 Transportation (49 USC 1501, et seq); the Department of Ecology, the Environmental Protection
34
35 Agency and the Hazardous Waste Transportation Act (49 USC 5101, et seq.).

36
37 **V. JOINT AND SEVERAL LIABILITY**

38
39 5.1 That under the laws of the State of Washington the Defendants are jointly and
40
41 severally liable to the plaintiffs for all acts and omissions on the part of their respective agents and
42
43 employees pursuant to RCW 4.22.070(a) and (3(a).
44
45
46
47

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38
39
40
41
42
43
44
45
46
47

VI. VICARIOUS LIABILITY

6.1 That under the laws of the State of Washington the Defendants are jointly and severally liable to the plaintiffs for all acts and omissions on the part of their respective agents and employees pursuant to the doctrine of vicarious liability and/or respondeat superior.

VII. STRICT LIABILITY

7.1 That under the laws of the State of Washington, Section 402A and 402B of the Restatement of Torts, and Federal Law, the Defendants are strictly liable for the Plaintiffs' injuries and damages, which were caused by the Defendants who jointly engaged in an ultra-hazardous activity, which activity led to the release of the hazardous substance that injured Plaintiffs.

7.2 Under Washington law the Defendants are jointly and severally strictly liable for Plaintiffs' damages caused by Defendants' ultra-hazardous activity.

VIII. RESULT OF DEFENDANTS' ACTIONS

8.1 That as a direct and proximate result of the negligence and conduct of Defendants the Plaintiff STEVEN CROW sustained severe and permanently disabling injuries, and resultant damages as indicated below.

8.2 That as a direct and proximate result of the negligence and conduct of Defendants the Plaintiff CHERYL CROW sustained a loss of consortium of her husband, Plaintiff Steven Crow.

8.3 That as a direct and proximate result of the negligence and conduct of Defendants the minor Plaintiffs, J.M.C., J.J.C. and G.E.C., have sustained the loss of parental consortium of their father, Plaintiff Steven Crow.

IX. DAMAGES

9.1 That as a direct and proximate result of the Defendants' conduct as alleged herein the Plaintiff, STEVEN CROW, sustained serious and diverse personal injuries, both physical and mental, which have necessitated medical care and treatment, which medical treatment continues to the present time and which will continue for an indefinite period of time in the future; that said Plaintiff has suffered both physical and mental pain, disability, discomfort, distress and anguish, together with a loss of earnings and impairment of future earning capacity which are permanent.

9.2 That as a direct and proximate result of the named Defendants' conduct as alleged herein Plaintiff, STEVEN CROW, has incurred numerous medical bills and related care for the treatment of the injuries he sustained in the subject incident. Said expenses are continuing and will continue into the future, all in an amount to be proven more fully at the time of trial.

9.3 At the time of the occurrence of the accident described herein, the Plaintiff was employed, and by reason of his injuries, has sustained significant wage loss in the past and presently incurring wage loss and expected to incur wage loss into the future and for the remaining time of his work life expectancy. The Plaintiff's ability to perform his job has been impaired since the date of the incident and he will continue to suffer future physical impairment to affect, not only his job, but his daily activities and his enjoyment of life.

9.4 As a direct and proximate result of the Defendants' conduct alleged herein Plaintiff STEVEN CROW has suffered a loss of parental-child relationship with his three children as a result of his permanent illness/injuries.

9.5 Plaintiff STEVEN CROW is entitled to general damages and special damages in an amount that will be fully proven at the time to trial, and will reasonably and fairly compensate the Plaintiff for the nature and extent of his injuries, the physical permanent residuals of said

TACOMA INJURY LAW GROUP, INC., P.S.
A Professional Services Corporation, Attorneys At Law
Physical: 3848 S Junett St, Tacoma, WA 98409
Mailing: PO Box 1113, Tacoma, WA 98401
Tel: (253) 472-8566 / Fax: (253) 475-1221

1 injuries, the pain and suffering, both physical and mental, and those injuries likely to be
2
3 experienced into the future for the remainder of his life and his loss of enjoyment of his life.
4

5 9.6 Plaintiff STEVEN CROW was not contributory negligent and is a fault-free
6
7 Plaintiff entitled to relief from the Defendants for the full extent of all damages proved.
8

9 9.7 Plaintiff CHERYL CROW, wife of Plaintiff Steven Crow, has sustained a loss of
10
11 consortium, companionship and services of her husband as a result of the injuries he has sustained
12
13 herein and she is entitled to compensation for the same as against Defendants.
14

15 9.8 Plaintiffs, J.M.C., J.J.C. and G.E.C., have sustained the loss of parental consortium
16
17 of their father, Plaintiff Steven Crow as a result of the injuries he has sustained herein and they are
18
19 entitled to compensation for the same as against Defendants.
20

21 9.9 Pursuant to RCW 4.22.070 (a) and (b) the Defendants named herein are jointly and
22
23 severally liable to the plaintiffs for the damages they have sustained as alleged herein;
24

25 **X. LIMITED WAIVER OF PHYSICIAN/PATIENT PRIVILEGE**
26

27 10.1 Pursuant to RCW 5.60.060(4)(b), Plaintiff Steven Crow hereby waives the
28
29 physician/patient privilege only in so far as necessary to place any and all alleged damages at issue
30
31 at the time of trial, as may be required by statute or amended statute or case law interpreting the
32
33 statutes of the state of Washington. It should be understood that Plaintiff's actions do not constitute
34
35 a waiver of any of his constitutional rights and that the defendants are not to contact any treating
36
37 physicians without first notifying counsel for the Plaintiff's so that he might bring the matter to
38
39 the attention of the court and seek appropriate relief, including imposing limitations and
40
41 restrictions upon any desire or intent by the defendants to contact past or subsequent treating
42
43 physicians *ex parte* pursuant to the rule announced in *Loudon v. Mhyre*, 110 Wn.2d 675 (1988);
44
45 and *Smith v. Orthopedics International, Ltd.*, P.S., 70 Wash.2d 659 (2010).
46
47

TACOMA INJURY LAW GROUP, INC., P.S.
A Professional Services Corporation, Attorneys At Law
Physical: 3848 S Junett St, Tacoma, WA 98409
Mailing: PO Box 1113, Tacoma, WA 98401
Tel: (253) 472-8566 / Fax: (253) 475-1221

XI. PRAYER FOR RELIEF

WHEREFORE, Plaintiffs STEVEN CROW and CHERL CROW, individually and as a marital community, and CHERYL CROW, on behalf of and as parent and guardian of the minor plaintiffs, J.M.C., J.J.C. and G.E.C., pray for judgment against the named Defendants, jointly and severally, for:

1. Past and future special and general damages;
2. Past and future permanent disability and disfigurement;
3. Past and future medical, hospital and other such health care expenses;
4. Any consequential, incidental or other special damages which may be shown;
5. Any and all other damages of a non-economic aspect concerning certain interests, allocations, loss of enjoyment, loss of spousal and parental consortium, separate and apart from any claim for general damage for pain and suffering;
7. Loss of enjoyment of life and of a vocation;
8. Prejudgment interest and attorney's fees and costs; and
9. Such other and further relief as the Court may deem just and proper.

//

//

//

//

//

//

//

//

XII. DEMAND FOR JURY

Pursuant to Rule 38 of the Federal Rules of Civil Procedure, the plaintiffs hereby demand a trial by jury in this action for all issues so triable.

DATED this 17th day of September, 2015.

TACOMA INJURY LAW GROUP, P.S.

By: s/ Tamara S. Clower
Tamara S. Clower, WSBA No. 20208
Tacoma Injury Law Group, Inc., P.S.
3848 S. Junett Street
Tacoma, WA 98409
Telephone: 253-472-8566
Facsimile: 253-475-1221
tammy@tacomainjurylawgroup.com
Attorneys for Plaintiffs Crow

TACOMA INJURY LAW GROUP, P.S.

By: s/ Gary M. Clower
Gary M. Clower, WSBA No. 13792
Tacoma Injury Law Group, Inc., P.S.
3848 S. Junett Street
Tacoma, WA 98409
Telephone: 253-472-8566
Facsimile: 253-475-1221
gary@tacomainjurylawgroup.com
Attorneys for Plaintiffs Crow